IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 16108 of 2004

Between:

Mr.D.Chenchu Subbaiah, s/o Chenchaiah,
r/o Ummareddygunta, Nellore Town, Nellore District.

..... PETITIONER

AND

1 The Joint Collector, Nellore, Nellore District.
2 Revenue Divisional Officer, Nellore, Nellore District.
3 Mandal Revenue Officer, Nellore, Nellore District.
4 A.V.Subba Rao, s/o Sheshaiah,
r/o Ummareddygunta, Nellore, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, direction or order especially in the nature of writ of mandamus declaring the action of the first respondent in granting ex-parte interim order and not disposing the application filed by the petitioner for vacation of the same and permitting the fourth respondent to run the F.P.Shop No.83 in Nellore town without any authorization is illegal, arbitrary and violative of Article 14 and 21 of the Constitution of India.

Counsel for the Petitioner: MR.M.SUBRAHMANYAM

Counsel for the Respondent Nos.1 to 3: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.4:MR.V.SUDHAKAR REDDY

The Court at the admission stage made the following:

ORDER:

Petitioner has been appointed as a dealer in respect of Fair Price Shop No.83 of Nellore town, after following due process of law vide proceedings of the Revenue Divisional Officer, Nellore, dated 28.06.2004. The petitioner states that in pursuance of the said order, he has made necessary deposits and consequently the essential commodities have been released to him for the month of July, 2004 and he has distributed the same to the cardholders. However, it appears that subsequently the fourth respondent herein, who was the temporary dealer in respect of the said shop and who was the unsuccessful candidate, filed an appeal before the Joint Collector, Nellore, challenging the order of appointment dated 28.06.2004. The first respondent having entertained the appeal by order dated 08.07.2004 granted interim stay of all further proceedings in furtherance of the order dated 28.06.2004. The petitioner states that though immediately thereafter he filed an application to vacate the stay order, the first respondent failed to consider the same till today. Hence, this writ petition.

I have heard the learned counsel for the petitioner, the learned Government Pleader for Civil Supplies appearing for respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

The learned counsel for the petitioner vehemently contends that the appointment of the petitioner as fair price shop dealer is in accordance with law and that there is absolutely no reason to stay

the operation of the said order and at any rate the first respondent is not justified in not considering the application filed by the petitioner to vacate the stay.

Since the statutory appeal is pending before the first respondent, I am not inclined to express any opinion on the merits of the case. However, since the petitioner states that he filed the vacate petition as long back as on 15-07-2004, I am of the view that the 1st respondent who is the authority to hear the Statutory Appeals ought to have decided the appeal pending on his file expeditiously.

In the circumstances, without expressing any opinion on the merits of the case, I deem it appropriate to dispose of the writ petition with a direction to the first respondent to dispose of the appeal pending on his file as expeditiously as possible, preferably within a period of two weeks from the date of receipt of a copy of this order.

It is represented by the learned counsel for the petitioner that the main appeal stands posted to 17.09.2004. If that be so, both the parties are directed to appear before the first respondent on 17.09.2004 without fail, in which event, the appeal be disposed of on 17.09.2004. In case the said date is not convenient for the first respondent, the first respondent shall fix an early date with notice to both parties and pass appropriate orders in accordance with law within two weeks as specified above.

Accordingly, the writ petition is disposed of. No costs.

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13.09.2004

Note: Furnish CC by tomorrow

(b/o)

VGB

To

1 The Joint Collector, Nellore, Nellore District.
2 The Revenue Divisional Officer, Nellore, Nellore District.
3 The Mandal Revenue Officer, Nellore, Nellore District.
4 2 CCs to the Government Pleader for Civil Supplies, High Court Buildings,

Hyderabad.

5 2CD copies